

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

No. 1359

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**Introduced by Assembly Member Skinner**

February 18, 2011

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An act to amend ~~Section 43600 of~~ Sections 14528.1, 14539, 14549.5, 14550, 14551, 14560.5, 14573.51, 14575, 14575.1, 14585.5, 19510, and 19511 of, and to repeal Sections 14523.5 and 19512 of, the Public Resources Code, relating to solid waste.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1359, as amended, Skinner. Solid waste: ~~landfills: evidence of financial ability: closure and postclosure maintenance: beverage containers: fiberglass.~~

*(1) Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires the Department of Resources Recycling and Recovery to establish reporting periods of 6 months each for redemption rates and recycling rates for specified types of beverage containers. The act also requires the department to determine the redemption rates and recycling rates for those beverage containers for each reporting period and to issue a report on those determinations. The act defines various words for purposes of those provisions, including "redemption rate."*

*This bill would delete the provisions that require the department to establish reporting periods for redemption rates and that require the department to determine redemption rates for specified types of beverage*

containers. The bill also would delete the definition of “redemption rate” and make other conforming changes.

(2) Existing law requires the department to calculate a processing fee and a processing payment for each beverage container with a specified scrap value. The processing fees are required to be paid by beverage manufacturers to the department and are deposited in the California Beverage Container Recycling Fund. Existing law requires a beverage manufacturer to pay the department the applicable processing fee for each container sold or transferred to a distributor or dealer within 40 days of the sale, but allows a beverage manufacturer that displays a pattern of operation in compliance with the act, to the satisfaction of the department, to make a single annual payment of processing fees, if the beverage manufacturer meets certain conditions.

This bill would delete the requirement that a beverage manufacturer meet certain of those conditions to be eligible to make a single annual payment of processing fees.

The bill would also correct references and delete obsolete provisions in the act.

(3) Existing law requires a fiberglass manufacturer to ensure that the annual tonnage of fiberglass manufactured or sold in the state by that manufacturer contain at least 30% cullet, unless the department makes a specified determination.

This bill would make technical changes regarding this requirement and would delete obsolete provisions regarding that determination.

~~Existing law, the California Integrated Waste Management Act of 1989, establishes an integrated waste management program administered by the Department of Resources Recycling and Recovery. The act requires a person owning or operating a solid waste landfill, as defined, to submit to the board, with the closure plan and postclosure maintenance plan, evidence of financial ability to provide for the cost of closure and postclosure maintenance, in an amount that is equal to the estimated cost of closure and 15 years of postclosure maintenance, contained in the closure plan and the postclosure maintenance plan submitted.~~

~~This bill would specify that the evidence of financial ability to provide for the cost of the closure and postclosure maintenance shall be in an amount that is equal to the estimated cost of closure and not less than 15 years of postclosure maintenance.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 14523.5 of the Public Resources Code is*  
2 *repealed.*

3     ~~14523.5. “Redemption rate” means the proportion of empty~~  
4 ~~beverage containers returned to processors measured in the manner~~  
5 ~~prescribed in Section 14551.~~

6     *SEC. 2. Section 14528.1 of the Public Resources Code is*  
7 *amended to read:*

8     14528.1. “Voluntary artificial scrap value” means a price paid  
9 by a willing purchaser of empty PET containers, that reflects the  
10 payment of the scrap value for all PET containers sold, and that,  
11 when combined with payments made from the PET processing fee  
12 account for PET containers established by the department pursuant  
13 to ~~clause (ii) of~~ subparagraph (A) of paragraph (6) of subdivision  
14 (a) of Section 14581, is equal to, or more than, the recycling cost  
15 for empty PET containers, as determined in subdivision ~~(d)~~ (c) of  
16 Section 14575.

17     *SEC. 3. Section 14539 of the Public Resources Code is*  
18 *amended to read:*

19     14539. (a) The department shall certify processors pursuant  
20 to this section. The director shall adopt, by regulation, requirements  
21 and standards for certification. The regulations shall require, but  
22 shall not be limited to requiring, that all of the following conditions  
23 be met for certification:

24     (1) The processor demonstrates to the satisfaction of the  
25 department that the processor will operate in accordance with this  
26 division.

27     (2) If one or more certified entities have operated at the same  
28 location within the past five years, the operations at the location  
29 of the processor exhibit, to the satisfaction of the department, a  
30 pattern of operation in compliance with the requirements of this  
31 division and regulations adopted pursuant to this division.

32     (3) The processor notifies the department promptly of any  
33 material change in the nature of the processor’s operations that  
34 conflicts with the information submitted in the operator’s  
35 application for certification.

36     (b) A certified processor shall comply with all of the following  
37 requirements for operation:

1 (1) The processor shall not pay a refund value for, or receive a  
2 refund value from the department for, any food or drink packaging  
3 material or any beverage container or other product that does not  
4 have a refund value established pursuant to Section 14560.

5 (2) The processor shall take those actions that satisfy the  
6 department to prevent the payment of a refund value for any food  
7 or drink packaging material or any beverage container or other  
8 product that does not have a refund value established pursuant to  
9 Section 14560.

10 (3) Unless exempted pursuant to subdivision (b) of Section  
11 14572, the processor shall accept, and pay at least the refund value  
12 for, all empty beverage containers, regardless of type, for which  
13 the processor is certified.

14 (4) A processor shall not pay any refund values, processing  
15 payments, or administrative fees to a noncertified recycler. A  
16 processor may pay refund values, processing payments, or  
17 administrative fees to any entity that is identified by the department  
18 on its list of certified recycling centers.

19 (5) A processor shall not pay any refund values, processing  
20 payments, or administrative fees on empty beverage containers or  
21 other containers that the processor knew, or should have known,  
22 were coming into the state from out of the state.

23 (6) A processor shall not claim refund values, processing  
24 payments, or administrative fees on empty beverage containers  
25 that the processor knew, or should have known, were received  
26 from noncertified recyclers or on beverage containers that the  
27 processor knew, or should have known, come from out of the state.  
28 A processor may claim refund values, processing payments, or  
29 administrative fees on any empty beverage container that does not  
30 come from out of the state and that is received from any entity that  
31 is identified by the department on its list of certified recycling  
32 centers.

33 (7) A processor shall take the actions necessary and approved  
34 by the department to cancel containers to render them unfit for  
35 redemption.

36 (8) A processor shall prepare or maintain the following  
37 documents involving empty beverage containers, as specified by  
38 the department by regulation:

39 (A) Shipping reports that are required to be prepared by the  
40 processor or that are required to be obtained from recycling centers.

1 (B) Processor invoice reports.

2 (C) Cancellation verification documents.

3 (D) Documents authorizing recycling centers to cancel empty  
4 beverage containers.

5 (E) Processor-to-processor transaction receipts.

6 (F) Rejected container receipts on materials subject to this  
7 division.

8 (G) Receipts for transactions with beverage manufacturers on  
9 materials subject to this division.

10 (H) Receipts for transactions with distributors on materials  
11 subject to this division.

12 (I) Weight tickets.

13 (9) In addition to the requirements of paragraph~~(7)~~ (8), a  
14 processor shall cooperate with the department and make available  
15 its records of scrap transactions when the review of these records  
16 is necessary for an audit or investigation by the department.

17 (c) The department may recover, in restitution pursuant to  
18 paragraph (5) of subdivision (c) of Section 14591.2, any payments  
19 made by the department to the processor pursuant to Section 14573  
20 that are based on the documents specified in paragraph (8) of  
21 subdivision (b) of this section, that are not prepared or maintained  
22 in compliance with the department's regulations, and that do not  
23 allow the department to verify claims for program payments.

24 *SEC. 4. Section 14549.5 of the Public Resources Code is*  
25 *amended to read:*

26 14549.5. ~~On or before the 90th day after the effective date of~~  
27 ~~the act amending this section, and annually thereafter~~ *On or before*  
28 *April 1 of each year*, or more frequently as determined to be  
29 necessary by the department, the department shall review and, if  
30 necessary in order to ensure payment of the most accurate  
31 commingled rate feasible, recalculate commingled rates paid for  
32 beverage containers and postfilled containers paid to curbside  
33 recycling programs, *dropoff* or collection programs, and recycling  
34 centers. Prior to recalculating a commingled rate pursuant to this  
35 section, the department shall do all of the following:

36 (a) Consult with private and public operators of curbside  
37 recycling programs, *dropoff* or collection programs, and recycling  
38 centers concerning the size of the statewide sample, appropriate  
39 sampling methodologies, and alternatives to exclusive reliance on  
40 a statewide commingled rate.

(b) At least 60 days prior to the effective date of any new commingled rate, hold a public hearing, after giving notice, to make available to the public and affected parties the department's review and any proposed recalculations of the commingled rate.

(c) At least 60 days prior to the effective date of any new commingled rate, and upon the request of any party, make available documentation or studies which were prepared as part of the department's review of a commingled rate.

(d) (1) Notwithstanding this division, the department may calculate a curbside recycling program commingled rate pursuant to this subdivision for bimetal containers and a combined commingled rate for all plastic beverage containers displaying the resin identification code "3," "4," "5," "6," or "7" pursuant to Section 18015.

(2) The department may enter into a contract for the services required to implement the amendments to this section made by the ~~act of the first half of the 2003-04 Regular Session of the Legislature amending this section~~ *Chapter 753 of the Statutes of 2003*. The department may not expend more than two hundred fifty thousand dollars (\$250,000) for each year of the contract. The contract shall be paid only from revenues derived from redemption payments and processing fees paid on plastic beverage containers displaying the resin identification code "3," "4," "5," "6," or "7" pursuant to Section 18015. If the department determines that insufficient funds will be available from these revenues, after refund values are paid to processors and the reduction is made in the processing fee pursuant to subdivision (f) (e) of Section 14575 for these containers, the department may determine not to calculate a commingled rate pursuant to this subdivision.

*SEC. 5. Section 14550 of the Public Resources Code is amended to read:*

14550. (a) (1) Every processor shall report to the department for each month the amount of empty beverage containers, by material type and weight of container or material, excluding refillable beverage containers, received from recycling centers and curbside programs for recycling, and the scrap value paid for glass, PET, and bimetal containers and any beverage container that is assessed a processing fee. Every processor shall also report to the department for each month the amount of other postfilled aluminum, glass, and plastic food and drink packaging materials

1 sold filled to consumers in this state and returned for recycling.  
2 These reports shall be submitted within 10 days after each month,  
3 in the form and manner that the department may prescribe.

4 (2) The department shall treat all information reported pursuant  
5 to this section by a processor as commercial or financial  
6 information subject to the procedures established pursuant to  
7 Section 14554.

8 (b) Every distributor who sells or offers for sale in this state  
9 beverages in aluminum beverage containers, ~~nonaluminum metal~~  
10 *bimetal* beverage containers, glass beverage containers, plastic  
11 beverage containers, or other beverage containers, including  
12 refillable beverage containers of these types, shall report to the  
13 department for each month the number of beverages sold in these  
14 beverage containers in this state which are labeled pursuant to  
15 Section 14561, by material type and size and weight of container  
16 or any other method as the department may prescribe. These reports  
17 shall be submitted by the day when payment is due, consistent  
18 with the applicable payment schedule specified in subdivision (a)  
19 of Section 14574, in the form and manner which the department  
20 may prescribe.

21 (c) Every distributor who sells or offers for sale in this state  
22 beverages in refillable beverage containers and who pays a refund  
23 value to distributors, dealers, or consumers who return these  
24 containers for refilling, shall report to the department for each  
25 month the number of these beverage containers returned empty to  
26 be refilled, by material type and size of container or any other  
27 method which the department may prescribe. These reports shall  
28 be submitted by the day when payment is due, consistent with the  
29 schedule specified in subdivision (a) of Section 14574, in the form  
30 and manner which the department may prescribe.

31 (d) Notwithstanding subdivision (b), a distributor who elects to  
32 make an annual payment pursuant to subdivision (b) of Section  
33 14574 may, upon the approval of the department, submit the reports  
34 required by this section annually to the department. The reports  
35 shall accompany the annual payment submitted pursuant to Section  
36 14574.

37 *SEC. 6. Section 14551 of the Public Resources Code is*  
38 *amended to read:*

39 14551. (a) The department shall establish reporting periods  
40 for the reporting of ~~redemption rates and~~ recycling rates. Each

1 reporting period shall be six months. The department shall  
2 determine all of the following for each reporting period and shall  
3 issue a report on its determinations, within 130 days of the end of  
4 each reporting period:

5 (1) Sales of beverages in aluminum beverage containers, bimetal  
6 beverage containers, glass beverage containers, plastic beverage  
7 containers, and other beverage containers in this state, including  
8 refillable beverage containers.

9 (2) Returns for recycling, and returns not for recycling, of empty  
10 aluminum beverage containers, bimetal beverage containers, glass  
11 beverage containers, plastic beverage containers, and other  
12 beverage containers in this state, including refillable beverage  
13 containers returned to distributors pursuant to Section 14572.5.  
14 These numbers shall be calculated using the average current  
15 weights of beverage containers, as determined and reported by the  
16 department. ~~To these numbers shall be added and separately~~  
17 ~~reported the following, if greater than, or equal to, zero:~~

18 ~~(A) All empty postfilled aluminum, glass, and plastic food or~~  
19 ~~drink packaging materials sold in the state, returned for recycling,~~  
20 ~~and reported by weight to the department which do not have a~~  
21 ~~refund value less the number specified in subparagraph (B).~~

22 ~~(B) The number of beverage containers which comprise the first~~  
23 ~~five percentage points of the redemption rate without including~~  
24 ~~the empty postfilled aluminum, glass, and plastic food or drink~~  
25 ~~packaging materials sold in the state, returned for recycling and~~  
26 ~~reported by weight to the department which do not have a refund~~  
27 ~~value.~~

28 ~~(3) An aluminum beverage container redemption rate, the~~  
29 ~~numerator of which shall be the number of empty aluminum~~  
30 ~~beverage containers returned, including refillable aluminum~~  
31 ~~beverage containers and empty postfilled aluminum food or drink~~  
32 ~~packaging material included in paragraph (2), and the denominator~~  
33 ~~of which shall be the number of aluminum beverage containers~~  
34 ~~sold in this state.~~

35 ~~(4)~~

36 (3) An aluminum beverage container recycling rate, the  
37 numerator of which shall be the number of empty aluminum  
38 beverage containers returned for recycling, including refillable  
39 aluminum beverage containers, and the denominator of which shall  
40 be the number of aluminum beverage containers sold in this state.



1     ~~(5) A bimetal beverage container redemption rate, the numerator~~  
2     ~~of which shall be the number of empty bimetal beverage containers~~  
3     ~~returned, and the denominator of which shall be the number of~~  
4     ~~bimetal beverage containers sold in this state.~~

5     ~~(6)~~

6     (4) A bimetal beverage container recycling rate, the numerator  
7     of which shall be the number of empty bimetal containers returned  
8     for recycling, including refillable bimetal beverage containers, and  
9     the denominator of which shall be the number of bimetal beverage  
10    containers sold in this state.

11    ~~(7) A glass beverage container redemption rate, the numerator~~  
12    ~~of which shall be the number of empty glass beverage containers~~  
13    ~~returned, including refillable glass beverage containers and empty~~  
14    ~~postfilled food or drink packaging materials included in paragraph~~  
15    ~~(2), and the denominator of which shall be the number of glass~~  
16    ~~beverage containers sold in this state.~~

17    ~~(8)~~

18    (5) A glass beverage container recycling rate, the numerator of  
19    which shall be the number of empty glass beverage containers  
20    returned for recycling, including refillable glass beverage  
21    containers, and the denominator of which shall be the number of  
22    glass beverage containers sold in this state.

23    ~~(9) A plastic beverage container redemption rate, the numerator~~  
24    ~~of which shall be the number of empty plastic beverage containers~~  
25    ~~returned, including refillable plastic beverage containers and empty~~  
26    ~~postfilled food or drink packaging materials included in paragraph~~  
27    ~~(2), and the denominator of which shall be the number of plastic~~  
28    ~~beverage containers sold in this state.~~

29    ~~(10)~~

30    (6) A plastic beverage container recycling rate, the numerator  
31    of which shall be the number of empty plastic beverage containers  
32    returned for recycling, including refillable plastic beverage  
33    containers, and the denominator of which shall be the number of  
34    plastic beverage containers sold in this state.

35    ~~(11) A redemption rate for other beverage containers, the~~  
36    ~~numerator of which shall be the number of empty beverage~~  
37    ~~containers other than those containers specified in paragraphs (1)~~  
38    ~~to (10), inclusive, returned, and the denominator of which shall be~~  
39    ~~the number of beverage containers, other than those containers~~  
40    ~~specified in paragraphs (1) to (10), inclusive, sold in this state.~~

1     ~~(12)~~

2     (7) A recycling rate for other beverage containers, the numerator  
3 of which shall be the number of empty beverage containers other  
4 than those containers specified in paragraphs (1) to ~~(10)~~ (6),  
5 inclusive, returned for recycling, and the denominator of which  
6 shall be the number of beverage containers, other than those  
7 containers specified in paragraphs (1) to ~~(10)~~ (6), inclusive, sold  
8 in this state.

9     ~~(13)~~

10    (8) The department may define categories of other beverage  
11 containers, and report a ~~redemption rate~~ and a recycling rate for  
12 each such category of other beverage containers.

13    ~~(14)~~

14    (9) The volumes of materials collected from certified recycling  
15 centers, by city or county, as requested by the city or county, if  
16 the reporting is consistent with the procedures established pursuant  
17 to Section 14554 to protect proprietary information.

18    (b) The department shall determine the manner of collecting  
19 the information for the reports specified in subdivision (a),  
20 including establishing procedures, to protect any proprietary  
21 information concerning the sales and purchases.

22    *SEC. 7. Section 14560.5 of the Public Resources Code is*  
23 *amended to read:*

24    14560.5. (a) (1) Except as provided in paragraph (2), the  
25 invoice or other form of accounting of the transaction submitted  
26 by a beverage distributor of beverages to a dealer shall separately  
27 identify the amount of any redemption payment imposed on  
28 beverage containers pursuant to Section 14560 and the separate  
29 identification of the invoice or other form of accounting of the  
30 transaction shall not combine or include the gross wholesale price  
31 with the redemption payment but shall separately state the gross  
32 amount of the redemption payment for each type of container  
33 included in each delivery.

34    (2) The invoice or other form of accounting of the transaction  
35 submitted by any distributor of beer and malt beverages or wine  
36 or distilled spirit coolers to a dealer may separately identify the  
37 portion of the gross wholesale price attributable to any redemption  
38 payment imposed on beverage containers pursuant to Section  
39 14560 and the separate identification of the invoice or other form  
40 of accounting of the transaction may separately state the gross

1 amount of the redemption payment for each type of container  
2 included in each delivery. The invoice or other form of accounting  
3 of this transaction may separately identify the portion of the gross  
4 wholesale price attributable to the redemption payment.

5 (3) ~~Notwithstanding Section 14541, the~~ The department shall  
6 randomly inspect beverage distributor invoices or other forms of  
7 accounting to ensure compliance with this subdivision. However,  
8 an unintentional error in addition or subtraction on an invoice or  
9 other form of accounting by a route driver of a distributor shall  
10 not be deemed a violation of this subdivision.

11 (4) For the purposes of this subdivision, the term “type of  
12 container” includes the amount of the redemption payment on  
13 containers under 24 ounces and on containers 24 ounces or more.

14 (b) To the extent technically and economically feasible, a dealer  
15 may separately identify the amount of any redemption payment  
16 on the customer cash register receipt provided to the consumer,  
17 by the dealer, that is applied to the purchase of a beverage  
18 container.

19 (c) (1) A dealer shall separately identify the amount of any  
20 redemption payment imposed on a beverage container in all  
21 advertising of beverage products and on the shelf labels of the  
22 dealer’s establishment. The separate identification shall be  
23 accomplished by stating one of the following:

24 (A) The price of the beverage product plus a descriptive term,  
25 as described in paragraph (2).

26 (B) The price of the beverage product plus the amount of the  
27 applicable redemption payment and a descriptive term, as described  
28 in paragraph (2).

29 (C) The price of the beverage product plus the amount of the  
30 applicable redemption payment, a descriptive term, as described  
31 in paragraph (2), and the total of these two amounts.

32 (2) For purposes of paragraph (1), the redemption payment shall  
33 be identified by one of the following descriptive terms: “California  
34 Redemption Value,” “CA Redemption Value,” “CRV,” “California  
35 Cash Refund,” “CA Cash Refund,” or any other message specified  
36 in Section 14561.

37 (3) A dealer shall not include the redemption payment in the  
38 total price of a beverage container in any advertising or on the  
39 shelf of the dealer’s establishment.

(4) This subdivision applies only to a dealer at a dealer location with a sales and storage area totaling more than 4,000 square feet.

(5) The penalties specified in Sections 14591 and 14591.1 shall not be applied to a person who violates this subdivision.

(d) With regard to the sale of beer and other malt beverages or wine and distilled spirits cooler beverages, any amount of redemption payment imposed by this division is subject to Section 25509 of the Business and Professions Code.

*SEC. 8. Section 14573.51 of the Public Resources Code is amended to read:*

14573.51. (a) Notwithstanding any other provision of this division, recycling centers and processors shall not pay curbside programs more than the applicable statewide average curbside commingled rate unless the curbside program has received an individual commingled rate from the department pursuant to subdivision (b).

(b) The department may establish a procedure whereby the operators of curbside programs may apply for an individual commingled rate for any material or types with or without a statewide commingled rate, including, but not limited to, glass, aluminum, bimetal, or any of the individual plastic resin types or combination of resin types identified by resin identification codes under Section 18015. These procedures shall require, at a minimum, all of the following:

(1) The individual rate shall be valid for no more than one year from the date the individual rate is authorized.

(2) The methodology used by the operator of the curbside program to determine the commingled rate shall be approved by the department, in advance.

(c) Curbside programs that have acquired an individual commingled rate, pursuant to this section, shall not be surveyed by the department to determine the statewide average curbside commingled rate during the period the individual commingled rate is effective.

(d) The department may enter into a contract for the services required to implement the amendments to this section made by ~~the act of the first half of the 2003-04 Regular Session of the Legislature amending this section~~ *Chapter 753 of the Statutes of 2003*. The department may not expend more than two hundred fifty thousand dollars (\$250,000) for each year of the contract. The

1 contract shall be paid only from revenues derived from redemption  
2 payments and processing fees paid on plastic beverage containers  
3 displaying the resin identification code “3,” “4,” “5,” “6,” or “7”  
4 pursuant to Section 18015. If the department determines that  
5 insufficient funds will be available from these revenues, after  
6 refund values are paid to processors and the reduction is made in  
7 the processing fee pursuant to subdivision (f) (e) of Section 14575  
8 for these containers, the department may determine not to calculate  
9 a commingled rate pursuant to subdivision (b).

10 *SEC. 9. Section 14575 of the Public Resources Code is*  
11 *amended to read:*

12 14575. (a) If any type of empty beverage container with a  
13 refund value established pursuant to Section 14560 has a scrap  
14 value less than the cost of recycling, the department shall, on  
15 January 1, 2000, and on or before January 1 annually thereafter,  
16 establish a processing fee and a processing payment for the  
17 container by the type of the material of the container.

18 (b) The processing payment shall be at least equal to the  
19 difference between the scrap value offered to a statistically  
20 significant sample of recyclers by willing purchasers, and except  
21 for the initial calculation made pursuant to subdivision (d), the  
22 sum of both of the following:

23 (1) The actual cost for certified recycling centers, excluding  
24 centers receiving a handling fee, of receiving, handling, storing,  
25 transporting, and maintaining equipment for each container sold  
26 for recycling or, only if the container is not recyclable, the actual  
27 cost of disposal, calculated pursuant to subdivision (c). The  
28 department shall determine the statewide weighted average cost  
29 to recycle each beverage container type, which shall serve as the  
30 actual recycling costs for purposes of paragraph (2) of subdivision  
31 (c), by conducting a survey of the costs of a statistically significant  
32 sample of certified recycling centers, excluding those recycling  
33 centers receiving a handling fee, for receiving, handling, storing,  
34 transporting, and maintaining equipment.

35 (2) A reasonable financial return for recycling centers.

36 (c) The department shall base the processing payment pursuant  
37 to this section upon all of the following:

38 (1) Except as provided in paragraph (2), for calculating  
39 processing payments that will be in effect on and after January 1,  
40 2004, the department shall determine the actual costs for certified

1 recycling centers, every second year, pursuant to paragraph (1) of  
2 subdivision (b). The department shall adjust the recycling costs  
3 annually to reflect changes in the cost of living, as measured by  
4 the Bureau of Labor Statistics of the United States Department of  
5 Labor or a successor agency of the United States government.

6 (2) On and after January 1, 2010, the department shall use the  
7 most recently published, measured actual costs of recycling for a  
8 specific beverage material type if the department determines the  
9 number of beverage containers for that material type that is returned  
10 for recycling pursuant to Section 14551, based on the most recently  
11 published calendar year number of beverage containers returned  
12 for recycling, is less than 5 percent of the total number of beverage  
13 containers returned for recycling for all material types. The  
14 department shall determine the actual recycling cost to be used for  
15 calculating processing payments for those beverage containers in  
16 the following manner:

17 (A) The department shall adjust the costs of recycling that  
18 material type every second year by the percentage change in the  
19 most recently measured cost of recycling HDPE plastic beverage  
20 containers, as determined by the department. The department shall  
21 use the percentage change in costs of recycling HDPE plastic  
22 beverage containers for this purpose, even if HDPE plastic  
23 beverage containers are less than 5 percent of the total volume of  
24 returned beverage containers.

25 (B) The department shall adjust the recycling costs annually for  
26 that material type to reflect changes in the cost of living, as  
27 measured by the Bureau of Labor Statistics of the United States  
28 Department of Labor or a successor agency of the United States  
29 government.

30 (d) Except as specified in subdivision (e), the actual processing  
31 fee paid by a beverage manufacturer shall equal 65 percent of the  
32 processing payment calculated pursuant to subdivision (b).

33 (e) The department, consistent with Section 14581 and subject  
34 to the availability of funds, shall reduce the processing fee paid  
35 by beverage manufacturers by expending funds in each material  
36 processing fee account, in the following manner:

37 (1) On January 1, 2005, and annually thereafter, the processing  
38 fee shall equal the following amounts:

39 (A) Ten percent of the processing payment for a container type  
40 with a recycling rate equal to or greater than 75 percent.

1 (B) Eleven percent of the processing payment for a container  
2 type with a recycling rate equal to or greater than 65 percent, but  
3 less than 75 percent.

4 (C) Twelve percent of the processing payment for a container  
5 type with a recycling rate equal to or greater than 60 percent, but  
6 less than 65 percent.

7 (D) Thirteen percent of the processing payment for a container  
8 type with a recycling rate equal to or greater than 55 percent, but  
9 less than 60 percent.

10 (E) Fourteen percent of the processing payment for a container  
11 type with a recycling rate equal to or greater than 50 percent, but  
12 less than 55 percent.

13 (F) Fifteen percent of the processing payment for a container  
14 type with a recycling rate equal to or greater than 45 percent, but  
15 less than 50 percent.

16 (G) Eighteen percent of the processing payment for a container  
17 type with a recycling rate equal to or greater than 40 percent, but  
18 less than 45 percent.

19 (H) Twenty percent of the processing payment for a container  
20 type with a recycling rate equal to or greater than 30 percent, but  
21 less than 40 percent.

22 (I) Sixty-five percent of the processing payment for a container  
23 type with a recycling rate less than 30 percent.

24 (2) The department shall calculate the recycling rate for purposes  
25 of paragraph (1) based on the 12-month period ending on June 30  
26 that directly precedes the date of the January 1 processing fee  
27 determination.

28 (f) Not more than once every three months, the department may  
29 make an adjustment in the amount of the processing payment  
30 established pursuant to this section notwithstanding any change  
31 in the amount of the processing fee established pursuant to this  
32 section, for any beverage container, if the department makes the  
33 following determinations:

34 (1) The statewide scrap value paid by processors for the material  
35 type for the most recent available 12-month period directly  
36 preceding the quarter in which the processing payment is to be  
37 adjusted is 5 percent more or 5 percent less than the average scrap  
38 value used as the basis for the processing payment currently in  
39 effect.

1 (2) Funds are available in the processing fee account for the  
2 material type.

3 (3) Adjusting the processing payment is necessary to further  
4 the objectives of this division.

5 (g) (1) Except as provided in paragraphs (2) and (3), every  
6 beverage manufacturer shall pay to the department the applicable  
7 processing fee for each container sold or transferred to a distributor  
8 or dealer within 40 days of the sale in the form and in the manner  
9 which the department may prescribe.

10 (2) (A) Notwithstanding Section 14506, with respect to the  
11 payment of processing fees for beer and other malt beverages  
12 manufactured outside the state, the beverage manufacturer shall  
13 be deemed to be the person or entity named on the certificate of  
14 compliance issued pursuant to Section 23671 of the Business and  
15 Professions Code. If the department is unable to collect the  
16 processing fee from the person or entity named on the certificate  
17 of compliance, the department shall give written notice by certified  
18 mail, return receipt requested, to that person or entity. The notice  
19 shall state that the processing fee shall be remitted in full within  
20 30 days of issuance of the notice or the person or entity shall not  
21 be permitted to offer that beverage brand for sale within the state.  
22 If the person or entity fails to remit the processing fee within 30  
23 days of issuance of the notice, the department shall notify the  
24 Department of Alcoholic Beverage Control that the certificate  
25 holder has failed to comply, and the Department of Alcoholic  
26 Beverage Control shall prohibit the offering for sale of that  
27 beverage brand within the state.

28 (B) The department shall enter into a contract with the  
29 Department of Alcoholic Beverage Control, pursuant to Section  
30 14536.5, concerning the implementation of this paragraph, which  
31 shall include a provision reimbursing the Department of Alcoholic  
32 Beverage Control for its costs incurred in implementing this  
33 paragraph.

34 (3) (A) Notwithstanding paragraph (1), if a beverage  
35 manufacturer displays a pattern of operation in compliance with  
36 this division and the regulations adopted pursuant to this division,  
37 to the satisfaction of the department, the beverage manufacturer  
38 may make a single annual payment of processing fees; if the  
39 beverage manufacturer meets either of the following conditions:



1 (i) If the redemption payment and refund value is not increased  
2 pursuant to paragraph (3) of subdivision (a) of Section 14560, the  
3 beverage manufacturer's projected processing fees for a calendar  
4 year total less than ten thousand dollars (\$10,000).

5 (ii) If the redemption payment and refund value is increased  
6 pursuant to paragraph (3) of subdivision (a) of Section 14560, the  
7 beverage manufacturer's projected processing fees for a calendar  
8 year total less than fifteen thousand dollars (\$15,000).

9 (B) An annual processing fee payment made pursuant to this  
10 paragraph is due and payable on or before February 1 for every  
11 beverage container sold or transferred by the beverage  
12 manufacturer to a distributor or dealer in the previous calendar  
13 year.

14 (C) A beverage manufacturer shall notify the department of its  
15 intent to make an annual processing fee payment pursuant to this  
16 paragraph on or before January 31 of the calendar year for which  
17 the payment will be due.

18 (4) The department shall pay the processing payments on  
19 redeemed containers to processors, in the same manner as it pays  
20 refund values pursuant to Sections 14573 and 14573.5. The  
21 processor shall pay the recycling center the entire processing  
22 payment representing the actual costs and financial return incurred  
23 by the recycling center, as specified in subdivision (b).

24 (h) When assessing processing fees pursuant to subdivision (a),  
25 the department shall assess the processing fee on each container  
26 sold, as provided in subdivisions (d) and (e), by the type of material  
27 of the container, assuming that every container sold will be  
28 redeemed for recycling, whether or not the container is actually  
29 recycled.

30 (i) The container manufacturer, or a designated agent, shall pay  
31 to, or credit, the account of the beverage manufacturer in an amount  
32 equal to the processing fee.

33 (j) If, at the end of any calendar year for which glass recycling  
34 rates equal or exceed 45 percent and sufficient surplus funds remain  
35 in the glass processing fee account *established by the department*  
36 *pursuant to subparagraph (A) of paragraph (6) of subdivision (a)*  
37 *of Section 14581* to make the reduction pursuant to this subdivision  
38 or if, at the end of any calendar year for which PET recycling rates  
39 equal or exceed 45 percent and sufficient surplus funds remain in  
40 the PET processing fee account *established by the department*

1 pursuant to subparagraph (A) of paragraph (6) of subdivision (a)  
2 of Section 14581 to make the reduction pursuant to this subdivision,  
3 the department shall use these surplus funds in the respective  
4 processing fee accounts in the following calendar year to reduce  
5 the amount of the processing fee that would otherwise be due from  
6 glass or PET beverage manufacturers pursuant to this subdivision.

7 (1) The department shall reduce the glass or PET processing  
8 fee amount pursuant to this subdivision in addition to any reduction  
9 for which the glass or PET beverage container qualifies under  
10 subdivision (e).

11 (2) The department shall determine the processing fee reduction  
12 by dividing two million dollars (\$2,000,000) from each processing  
13 fee account by an estimate of the number of containers sold or  
14 transferred to a distributor during the previous calendar year, based  
15 upon the latest available data.

16 SEC. 10. Section 14575.1 of the Public Resources Code is  
17 amended to read:

18 14575.1. (a) (1) Notwithstanding subdivision (b) of Section  
19 14575, if a willing purchaser offers to purchase empty PET  
20 containers at a voluntary artificial scrap value that is equal to the  
21 processing fee reduced pursuant to subdivision-~~(f)~~ (e) of Section  
22 14575 when applied to all containers sold, no processing fee shall  
23 be imposed on PET containers pursuant to Section 14575.

24 (2) For purposes of this section, "PET Processing Fee Account"  
25 means the account established by the department pursuant to  
26 subparagraph (A) of paragraph (6) of subdivision (a) of Section  
27 14581 for the deposit of the funds specified in that paragraph with  
28 regard to PET containers.

29 (b) If a willing purchaser offers to pay a voluntary artificial  
30 scrap value, the department shall, on a monthly basis, determine  
31 whether the sum of the voluntary artificial scrap value and  
32 payments made from the PET Processing Fee Account pursuant  
33 to subdivision-~~(f)~~ (e) of Section 14575, are equal to, or more than,  
34 the recycling cost for empty PET containers determined pursuant  
35 to subdivision (d) of Section 14575.

36 (c) If the department determines that, for any monthly period,  
37 the sum of the voluntary artificial scrap value and payments made  
38 from the PET Processing Fee Account pursuant to subdivision-~~(f)~~  
39 (e) of Section 14575, is less than the recycling cost for empty PET

containers, determined pursuant to Section 14575, the following requirements shall apply:

(1) The department shall immediately provide written notification of the deficiency for that monthly period and the amount of that deficiency to any willing purchaser.

(2) A willing purchaser shall correct the deficiency in the next monthly period by adjusting the voluntary artificial scrap value by an amount sufficient to equal the recycling cost for empty PET containers plus the previous monthly period's deficiency.

(3) If the deficiency and amount in arrears is not corrected within 30 days of providing written notice to willing purchasers of empty PET containers, the department shall impose a processing fee pursuant to Section 14575 which includes any amount necessary, including any amount in arrears, to cover the cost of recycling empty PET containers.

(d) If the department determines that, for any monthly period, the sum of the voluntary artificial scrap value and payments made from the PET Processing Fee Account pursuant to subdivision-(f) (e) of Section 14575, is greater than the recycling cost for empty PET containers, the department shall do both of the following:

(1) Immediately provide written notification of the deviation for that monthly period and the amount of that deviation to any willing purchaser.

(2) Provide a credit equal to the amount of the deviation for any future monthly period wherein the voluntary artificial scrap value, and payments made from the PET Processing Fee Account, are less than the recycling cost of empty PET containers determined pursuant to subdivision-(d) (c) of Section 14575.

(e) Nothing in this section is intended to affect any litigation that was pending on January 1, 1996, in which the department is a party of record.

*SEC. 11. Section 14585.5 of the Public Resources Code is amended to read:*

14585.5. (a) The department shall not make handling fee payments to a supermarket site if the department determines that all empty beverage container types are not redeemed at the same physical location within the recycling location.

(b) A supermarket site that redeems all empty beverage container types at the same physical location within the recycling location, and issues script scrip to consumers which that is required to be

1 redeemed at a nearby host business, is eligible to receive handling  
2 fee payments.

3 *SEC. 12. Section 19510 of the Public Resources Code is*  
4 *amended to read:*

5 19510. (a) Except as provided in ~~Section 19511 subdivision~~  
6 (b), every manufacturer shall ensure that the annual tonnage of  
7 fiberglass manufactured or sold in the state by that manufacturer  
8 on and after January 1, ~~1992~~ 2013, ~~other than fiberglass in~~  
9 ~~inventory manufactured for sale before January 1, 1992,~~ shall  
10 contain at least ~~10~~ 30 percent cullet.

11 (b) *If the department determines that the requirements of this*  
12 *section would pose an unreasonable technical burden on the*  
13 *fiberglass manufacturer that exceed the benefit of recycling cullet,*  
14 *the annual tonnage of fiberglass manufactured or sold in the state*  
15 *by the manufacturer may contain a lesser amount, as determined*  
16 *by the department.*

17 *SEC. 13. Section 19511 of the Public Resources Code is*  
18 *amended to read:*

19 19511. The percentage of fiberglass sold ~~which~~ *that* is made  
20 of cullet shall be calculated in tons used on an annual basis. ~~Unless~~  
21 ~~the department determines that an increase in the percentage of~~  
22 ~~cullet would pose an unreasonable technical burden on the~~  
23 ~~fiberglass manufacturer that exceeds the benefits to recycling the~~  
24 ~~cullet, each fiberglass manufacturer shall increase the percentage~~  
25 ~~of cullet in fiberglass in accordance with the following~~  
26 ~~requirements:~~

27 (a) ~~On and after January 1, 1994, until December 31, 1994, the~~  
28 ~~percentage of cullet shall be 20 percent.~~

29 (b) ~~On and after January 1, 1995, the percentage of cullet shall~~  
30 ~~be 30 percent.~~

31 *SEC. 14. Section 19512 of the Public Resources Code is*  
32 *repealed.*

33 ~~19512. On or before January 1, 1994, the department shall~~  
34 ~~request comments from at least two fiberglass manufacturers, two~~  
35 ~~cullet processors, and any other interested parties on the feasibility~~  
36 ~~of increasing the percentage of cullet in fiberglass to 30 percent.~~  
37 ~~On or before July 1, 1994, the department shall hold a public~~  
38 ~~hearing, on the record, with representatives from the fiberglass~~  
39 ~~industry, cullet processors, and other interested parties to determine~~

1 ~~the feasibility of increasing cullet content in fiberglass~~  
2 ~~manufacturing.~~

3 SECTION 1. ~~Section 43600 of the Public Resources Code is~~  
4 ~~amended to read:~~

5 43600. (a) ~~Except as otherwise provided in subdivision (b), a~~  
6 ~~person owning or operating a solid waste landfill, as defined in~~  
7 ~~subdivision (a) of Section 40195.1, shall, with the closure plan~~  
8 ~~and postclosure maintenance plan submitted pursuant to~~  
9 ~~subdivision (b) of Section 43501, submit to the board evidence of~~  
10 ~~financial ability to provide for the cost of closure and postclosure~~  
11 ~~maintenance, in an amount that is equal to the estimated cost of~~  
12 ~~closure and not less than 15 years of postclosure maintenance,~~  
13 ~~contained in the closure plan and the postclosure maintenance plan~~  
14 ~~submitted.~~

15 (b) ~~On and after the effective date of the federal regulations set~~  
16 ~~forth in Subpart G (commencing with Section 258.70) of Part 258~~  
17 ~~of Title 40 of the Code of Federal Regulations, a person owning~~  
18 ~~or operating a solid waste landfill, shall, with the closure plan and~~  
19 ~~postclosure maintenance plan submitted pursuant to subdivision~~  
20 ~~(b) of Section 43501, submit to the board evidence of financial~~  
21 ~~ability to provide for closure and postclosure maintenance, in an~~  
22 ~~amount that is equal to the estimated cost of closure and 30 years~~  
23 ~~of postclosure maintenance, contained in the closure plan and the~~  
24 ~~postclosure maintenance plan submitted.~~